

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:10-CV-182-FL

This matter comes before the court on defendant's June 7, 2011, motion to compel plaintiff to provide discovery responses and initial disclosures (DE # 21). For reasons that follow, the court allows the motion to compel.

BACKGROUND

Plaintiff filed this action in state court, alleging violations of federal employment law. Defendant removed to federal court and moved to change venue to this district. On March 21, 2011, the court entered a case management order (“CMO”).

On June 7, 2011, defendant filed motion to compel plaintiff's discovery responses and Rule 26(a) disclosures. In support, defendant attached several letters to plaintiff requesting his initial disclosures. Defendant also attached its first set of interrogatories, request for admissions, and request for production of documents, served April 12, 2011.

On July 27, 2011, the court ordered plaintiff to show cause why his case should not be dismissed for failure to prosecute and failure to obey the CMO. Plaintiff responded September 23, 2011, more than three weeks after the court's September 1, 2011 deadline, by filing an incomplete

Rule 26(a) disclosure.

COURT'S DISCUSSION

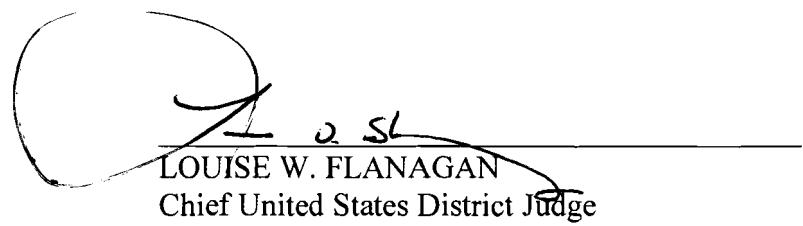
A party may file a motion to compel when an opponent fails to timely make a Rule 26(a) disclosure, Fed R. Civ. P. 37(a)(3)(A), or respond to a discovery request. Fed R. Civ. P. 37(a)(3)(B). According to defendant's status report, filed September 28, 2011, plaintiff has not yet provided a complete and signed Rule 26 disclosure statement. Nor has plaintiff served any response to defendant's discovery requests. Defendant has made a good faith effort to obtain plaintiff's initial disclosures and discovery responses. Plaintiff has failed to adequately respond.

The court hesitates to allow plaintiff further opportunity to bring himself into conformity with the rules and the court's orders. However, where plaintiff proceeds pro se, and has made some attempt to comply, the court affords one further and final opportunity, seizing here now on the vehicle of the motion to compel. For reasons given, defendant's motion to compel (DE # 21) is GRANTED. Plaintiff is ORDERED fully to respond within fourteen (14) days of entry of this order to defendant's first set of interrogatories, request for admissions, and request for production of documents. Plaintiff is further ORDERED to provide defendant within fourteen (14) days of entry of this order complete Rule 26(a) initial disclosures.

CONCLUSION

The court having granted defendant's motion to compel, and afforded plaintiff fourteen (14) days from date of entry of this order within which to fully discharge his obligations under Rule 26 of the Federal Rules of Civil Procedure, and respond to defendant's set of written discovery propounded April 12, 2011, also now notices plaintiff that your failure to comply with the terms of this order will be grounds for dismissal of your case, pursuant to Rules 37(b)(2)(A)(v) and 41(b).

SO ORDERED, this the 4th day of October, 2011.



LOUISE W. FLANAGAN
Chief United States District Judge